BORA LASKIN LAW LIBRARY
3 1761 03870 6198

FIRST NATIONS AND THE LAW: CASES AND MATERIALS

Volume II

Patrick Macklem
Faculty of Law
University of Toronto

Fall 1994

These materials have been prepared exclusively for the use of students of the Faculty of Law, University of Toronto.

BORA LASKIN LAW LIBRARY

SEP 15 1994

FACULTY OF LAW
UNIVERSITY OF TORONTO

BORA LASKIN LAW LIBRARY
UNIVERSITY OF TORONTO

FIRST NATIONS AND THE LAW: CASES AND MATERIALS

Volume II

Patrick Macklem
Faculty of Law
University of Toronto

Fall 1994

These materials have been prepared exclusively for the use of students of the Faculty of Law, University of Toronto.

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/firstnationslawc02mack_2

TABLE OF CONTENTS*

Page

Volume II

VII. THE INDIAN ACT

A. General Principles

Claudia Notzke, *Aboriginal Peoples and Natural Resources in Canada* (1994) 173-181 380

Leroy Little Bear, *Indian Government Pursuant to the Indian Act*, in *Pathways to Self-Determination: Canadian Indians and the Canadian State* (Little Bear, Boldt & Long eds. 1984) 389

Logan v. Styres (1959), 20 D.L.R. (2d) 416 (Ont. H.C.).. 395

R. v. Gingrich (1958), 29 W.W.R. 471 (Alta. App. Div.).. 399

A.G.B.C. v. Wale (1987), 9 B.C.L.R. (2d) 333 (B.C.C.A.) 402

Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice* (1989), 40-50 411

B. "Marrying Out"

Indian Act, R.S.C. 1970, c. I-16 420

Lavell v. A.G. Canada (1973), 38 D.L.R. (3d) 481 (S.C.C.) 422

Lovelace v. Canada, 36 U.N. GOAR Supp. (No. 40) Annex XVIII; U.N. Doc. A/36/40 (1981) 432

Indian Act, R.S.C. 1985, c. I-5 438

Report to Parliament, *Implementation of the 1985 Changes to the Indian Act* (1987), 8-11 440

Enough is Enough: Aboriginal Women Speak Out (Silman ed. 1987), 215-47 444

Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (1987), 63-69 460

---

*I am grateful to Peter Miller for his assistance in compiling these materials.

VIII. ABORIGINAL CHILD WELFARE

A. Introduction

Philip Zylberberg, *Who Should Make Child Protection Decisions for the Native Community?* (1991), 11 Windsor Yrbk. Access to Justice 74, at 75-79 465

B. "The Best Interests of the Child"

Racine v. Woods (1983), 1 D.L.R. (4th) 193 (S.C.C.) 569

B.B. v. Director of Child and Family Services (1988), 51 Man. Rep. (2d) 245 (Man. C.A.) 478

B.B. v. Director of Child and Family Services, [1989] 1 S.C.R. 291 483

Tom v. Winnipeg Children's Aid Society (1982), 2 W.W.R. 212 (Man. C.A.) 484

C. Recent Developments

Philip Zylberberg, *Who Should Make Child Protection Decisions for the Native Community?* (1991), 11 Windsor Yrbk. Access to Justice 74, at 81-83 486

C.J.K. v. Children's Aid Society of Metropolitan Toronto, [1989] 4 C.N.L.R. 75 (Ont. Prov. Ct.) 489

Re Family and Child Service Act of British Columbia, [1990] 4 C.N.L.R. 14 (B.C. Prov. Ct.) 496

Jane Doe v. Awasis Agency of Northern Manitoba (1990), 72 D.L.R. (4th) 738 (Man. Q.B.) 504

IX. RIGHTS OF THE METIS PEOPLE

Catherine Bell, *Who Are the Métis People in Section 35(2)?* (1991), 29 Alta. L. Rev. 351 507

Paul Chartrand, *Aboriginal Rights: The Dispossession of the Métis* (1991), 29 Osgoode Hall L.J. 457 516

Dumont v. A.G. Canada (1988), 52 D.L.R. (4th) 25 (Man. C.A.) 528

Dumont v. A. G. Canada (1990), 67 D.L.R. (4th) 159 (S.C.C.) 538

R. v. McPherson, [1992] 4 C.N.L.R. 144 (Man. Prov. Ct.) 539

X. FIRST NATIONS AND THE CHARTER

Mary Ellen Turpel, *Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences* (1989-90), 6 Can. Human Rights Yrbk. 3 551

Eastmain Band v. Gilpin, [1988] 3 C.N.L.R. (Que. Prov. Ct.) 556

Manitoba Rice Farmers Association v. Manitoba Human Rights Commission (1987), 50 Man. R. (2d) 92 (Q.B.) 566

R. v. Willcocks (July 7, 1992, Ont. C.J.) 577

Corbiere v. Canada (Minister of Indian and Northern Affairs) (1993), 107 D.L.R. (4th) 582 (F.C.T.D.) 585

Norris v. Thomas, [1992] 2 C.N.L.R. 139 (B.C.S.C.) 599

J. Anthony Long and Katherine Beaty Chiste, *Indian Governments and the Canadian Charter of Rights and Freedoms* (1994), 18 American Indian Culture and Research Journal 91 612

XI. ABORIGINAL PEOPLE AND CRIMINAL JUSTICE

R. v. Machekequonabe (1898), 28 O.R. 309 (Div. Ct.) 637

Re Stacey and Montour and the Queen (1981), 63 C.C.C. (2d) 61 (Que. C.A.) 639

Michael Jackson, *In Search of the Pathways to Justice: Alternative Dispute Resolution in Aboriginal Communities*, [1992] U.B.C. L. Rev. 147, at 148-160 642

R. v. Moses (1992), 71 C.C.C. (3d) 347 (Yukon Terr. Ct.) 655

Law Reform Commission of Canada, *Aboriginal Peoples and Criminal Justice* (Report No. 34, 1991), at 13-23 681

Bryan Schwartz, *A Separate Aboriginal Justice System?* (1990), 28 Man. L.J. 77 688

Jeremy Webber, *Individuality, Equality and Difference: Justifications for a Parallel System of Aboriginal Justice* (Royal Commission on Aboriginal Peoples, 1993) 133 698

Teressa Nahanee, *Dancing With a Gorilla: Aboriginal Women, Justice and the Charter* (Royal Commission on Aboriginal Peoples, 1993) 359 705